

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1033

Introduced by Connealy, 16; Cunningham, 40; Flood, 19; Kremer, 34;  
Schrock, 38; Wehrbein, 2

Read first time January 11, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to ethanol; to amend section 66-1345,  
2 Revised Statutes Cumulative Supplement, 2004, and  
3 section 66-1345.04, Revised Statutes Supplement, 2005; to  
4 eliminate a provision relating to transfers and proration  
5 of fuel tax credits; to state intent relating to funding;  
6 to repeal the original sections; and to declare an  
7 emergency.

8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 66-1345, Revised Statutes Cumulative  
2 Supplement, 2004, is amended to read:

3           66-1345 (1) There is hereby created the Ethanol  
4 Production Incentive Cash Fund which shall be used by the board  
5 to pay the credits created in section 66-1344 to the extent  
6 provided in this section. Any money in the fund available for  
7 investment shall be invested by the state investment officer  
8 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
9 State Funds Investment Act. The State Treasurer shall transfer to  
10 the Ethanol Production Incentive Cash Fund such money as shall be  
11 (a) appropriated to the Ethanol Production Incentive Cash Fund by  
12 the Legislature, (b) given as gifts, bequests, grants, or other  
13 contributions to the Ethanol Production Incentive Cash Fund from  
14 public or private sources, (c) made available due to failure to  
15 fulfill conditional requirements pursuant to investment agreements  
16 entered into prior to April 30, 1992, (d) received as return on  
17 investment of the Ethanol Authority and Development Cash Fund, (e)  
18 credited to the Ethanol Production Incentive Cash Fund from the  
19 excise taxes imposed by section 66-1345.01, and (f) credited to the  
20 Ethanol Production Incentive Cash Fund pursuant to sections 66-489,  
21 ~~66-4,134,~~ 66-726, 66-1345.04, and 66-1519.

22           (2) The Department of Revenue shall, at the end of each  
23 calendar month, notify the State Treasurer of the amount of motor  
24 fuel tax that was not collected in the preceding calendar month  
25 due to the credits provided in section 66-1344. The State Treasurer

1 shall transfer from the Ethanol Production Incentive Cash Fund to  
2 the Highway Trust Fund an amount equal to such credits less the  
3 following amounts:

4 (a) For 1993, 1994, and 1995, the amount generated during  
5 the calendar quarter by a one-cent tax on motor fuel pursuant to  
6 sections 66-489 and 66-6,107;

7 (b) For 1996, the amount generated during the calendar  
8 quarter by a three-quarters-cent tax on motor fuel pursuant to such  
9 sections;

10 (c) For 1997, the amount generated during the calendar  
11 quarter by a one-half-cent tax on motor fuel pursuant to such  
12 sections; and

13 (d) For 1998 and each year thereafter, no reduction.

14 For 1993 through 1997, if the amount generated pursuant  
15 to subdivisions (a), (b), and (c) of this subsection and the  
16 amount transferred pursuant to subsection (1) of this section are  
17 not sufficient to fund the credits provided in section 66-1344,  
18 then the credits shall be funded through the Ethanol Production  
19 Incentive Cash Fund but shall not be funded through either the  
20 Highway Cash Fund or the Highway Trust Fund. For 1998 and each year  
21 thereafter, the credits provided in such section shall be funded  
22 through the Ethanol Production Incentive Cash Fund but shall not be  
23 funded through either the Highway Cash Fund or the Highway Trust  
24 Fund.

25 ~~If, during any month, the amount of money in the Ethanol~~

1    ~~Production Incentive Cash Fund is not sufficient to reimburse the~~  
2    ~~Highway Trust Fund for credits earned pursuant to section 66-1344,~~  
3    ~~the Department of Revenue shall suspend the transfer of credits by~~  
4    ~~ethanol producers until such time as additional funds are available~~  
5    ~~in the Ethanol Production Incentive Cash Fund for transfer to the~~  
6    ~~Highway Trust Fund. Thereafter, the Department of Revenue shall, at~~  
7    ~~the end of each month, allow transfer of accumulated credits earned~~  
8    ~~by each ethanol producer on a prorated basis derived by dividing~~  
9    ~~the amount in the fund by the aggregate amount of accumulated~~  
10   ~~credits earned by all ethanol producers.~~

11            (3) The State Treasurer shall transfer from the Ethanol  
12    Production Incentive Cash Fund to the Management Services Expense  
13    Revolving Fund the amount reported under subsection (4) of section  
14    66-1345.02 for each calendar month of the fiscal year as provided  
15    in such subsection.

16            (4) On December 31, 2012, the State Treasurer shall  
17    transfer one-half of the unexpended and unobligated funds from  
18    the Ethanol Production Incentive Cash Fund to the Nebraska Corn  
19    Development, Utilization, and Marketing Fund and Grain Sorghum  
20    Development, Utilization, and Marketing Fund in the same proportion  
21    as funds were collected pursuant to section 66-1345.01 from corn  
22    and grain sorghum. The Department of Agriculture shall assist the  
23    State Treasurer in determining the amounts to be transferred to  
24    the funds. The remaining one-half of the unexpended and unobligated  
25    funds shall be transferred to the General Fund.

1           (5) Whenever the unobligated balance in the Ethanol  
2     Production Incentive Cash Fund exceeds twenty million dollars, the  
3     Department of Revenue shall notify the Department of Agriculture at  
4     which time the Department of Agriculture shall suspend collection  
5     of the excise tax levied pursuant to section 66-1345.01. If, after  
6     suspension of the collection of such excise tax, the balance of  
7     the fund falls below ten million dollars, the Department of Revenue  
8     shall notify the Department of Agriculture which shall resume  
9     collection of the excise tax.

10           (6) On or before December 1, 2003, and each December  
11     1 thereafter, the Department of Revenue and the Nebraska Ethanol  
12     Board shall jointly submit a report to the Legislature which shall  
13     project the anticipated revenue and expenditures from the Ethanol  
14     Production Incentive Cash Fund through the termination of the  
15     ethanol production incentive programs pursuant to section 66-1344.  
16     The initial report shall include a projection of the amount  
17     of ethanol production for which the Department of Revenue has  
18     entered agreements to provide ethanol production credits pursuant  
19     to section 66-1344.01 and any additional ethanol production which  
20     the Department of Revenue and the Nebraska Ethanol Board reasonably  
21     anticipate may qualify for credits pursuant to section 66-1344.

22           Sec. 2. Section 66-1345.04, Revised Statutes Supplement,  
23     2005, is amended to read:

24           66-1345.04 (1) The State Treasurer shall transfer from  
25     the General Fund to the Ethanol Production Incentive Cash Fund,

1 on or before the end of each of fiscal years 1995-96 and 1996-97,  
2 \$8,000,000 per fiscal year.

3 (2) It is the intent of the Legislature that the  
4 following General Fund amounts be appropriated to the Ethanol  
5 Production Incentive Cash Fund in each of the following years:

6 (a) For each of fiscal years 1997-98 and 1998-99,  
7 \$7,000,000 per fiscal year;

8 (b) For fiscal year 1999-2000, \$6,000,000;

9 (c) For fiscal year 2000-01, \$5,000,000;

10 (d) For fiscal year 2001-02 and for each of fiscal years  
11 2003-04 through 2006-07, \$1,500,000;

12 (e) For each of fiscal years 2005-06 and 2006-07,  
13 \$2,500,000 in addition to the amount in subdivision (2)(d) of  
14 this section;

15 (f) For fiscal year 2007-08, \$5,500,000; and

16 (g) For each of fiscal years 2008-09 through 2011-12,  
17 \$2,500,000; and -

18 (h) For each of fiscal years 2006-07 through 2011-12,  
19 \$15,000,000 in addition to the other amounts in this section.

20 Sec. 3. Original section 66-1345, Revised Statutes  
21 Cumulative Supplement, 2004, and section 66-1345.04, Revised  
22 Statutes Supplement, 2005, are repealed.

23 Sec. 4. Since an emergency exists, this act takes effect  
24 when passed and approved according to law.